**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner of Patents and Trademarks

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 09/038,158 | WALLMAN, Steven M. H. |
| | Examiner | Art Unit |
| | Jim Calve | 2164 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____3____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on *Jul 2, 2001* .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) *1-50* is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-50* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on __*Mar 11, 1998*__ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

    a) ☐ All b) ☐ Some* c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s).*13, 15*

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other: _____

## DETAILED ACTION

### *Drawings*

1.    The drawings are objected to under 37 CFR 1.83(a).  The drawings must show every

feature of the invention specified in the claims.  Therefore, the arrow on a dial (claim 33) must be

shown or the feature(s) canceled from the claim(s).  No new matter should be entered.

Applicant's intention to submit a revised drawing upon allowance of claim 33 is noted; however,

applicant is required to submit a proposed drawing correction in reply to this Office action.

Formal correction of the noted defect can be deferred until the application is allowed by the

examiner.

### *Claim Rejections - 35 USC § 102*

2.    Claims 1, 4-8, 44, 45, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by

Harris et al, U.S. patent 5,918,218.

Harris et al disclose a trading system and method for enabling a plurality of users to

create, manage, and trade a portfolio of directly owned assets/liabilities with a processor (40, 50),

communicating with a plurality of users (e.g., column 2, line 30 et seq; column 6, line 10 et seq),

aggregation of buy/sell orders (e.g., column 6, line 30 et seq; column 7, line 1 et seq), order to

trade (e.g., column 6, line 33 et seq), storage (40), and electronic payment system (e.g., 1758)

(Figure 17C).

Harris et al also disclose an electronic payment system (e.g., 1758) (Figure 17C), plural

accounts and payment storage (e.g., Figures 17A-D; column 2, line 60 et seq; column 13, line 38

et seq), communication link (e.g., 240), sending aggregate users' trades to third party trader (e.g., column 7, line 10 et seq).

3.     Claims 30, 32, 44, 47, and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Ray, U.S. patent 6,018,722.

Ray et al disclose a PC-based program and apparatus to create, manage, and trade a portfolio of directly owned assets/liabilities with a GUI (e.g., 200, 210, 230) (Figure 2; column 10, line 25 et seq), asset allocation model (115), user preference data (Figure 6), plurality of assets/liabilities for portfolio (e.g., column 5, line 25 et seq), risk and return calculation process (e.g., 720) (e.g., column 5, line 20 et seq), portfolio editor (Figure 7), communication process (130, 450) (Figures 1, 4; column 9, line 23 et seq), processor receiving user data/amounts of money to be invested (e.g., column 9, line 22 et seq; column 10, line 1 et seq), storage unit (245), receiving user trading data including user ID and preference information (e.g., Figures 1-4, 6, 7; column 4, line 55 et seq), creating a user customizable portfolio and receiving a user order to trade the portfolio (e.g., column 3, line 4 et seq; column 5, line 20 et seq; column 8, line 54 et seq), executing plural trades for the portfolio (e.g., Figures 1, 4, 7; column 3, line 19 et seq; column 9, line 23 et seq).

Ray et al also disclose a numerical indicator (e.g., column 5, line 20 et seq).

### Claim Rejections - 35 USC § 103

4.     Claims 2, 3, 9-17, 19-25, 36-42, 48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al, in view of Jones et al, U.S. patent 6,021,397 (and Maggioncalda et al, U.S. patent 5,918,217, which is incorporated therein by reference; column 12, line 35 et seq).

Harris et al disclose a trading system and method, as discussed, including periodically aggregating and executing transactions over an amount of transactions to be traded by a user in subsequent transactions (e.g., column 6, line 50 et seq; column 7, line 10 et seq), a processor, communication of user ID (e.g., Figures 11-14), periodic/monthly payments (e.g., payroll deductions, column 8, line 15 et seq), fractional shares (e.g., column 8, line 25 et seq), trade pricing information (column 7, line 27 et seq), and payment information (e.g., column 6, line 23 et seq). Harris et al do not disclose asset allocation/customizable portfolio creation based on user preferences. Jones et al disclose a user trader system with asset allocation modeling to select assets (e.g., column 2, line 15 et seq; column 2, line 50 et seq; column 3, line 40 et seq), user PC (345) for user ID and preferences (e.g., Figures 1, 3; column 5, line 50 et seq), GUI risk and return process (Maggioncalda et al, Figures 4-7c, 9, 10, 12a/b, 14a/b), allocation adjustment (Maggioncalda et al, Figures 12a, 12b), program transmission (e.g., column 5, line 40 et seq), tax basis (320) (column 10, line 25 et seq), pricing data reallocation (column 12, line 10 et seq; column 18, line 50 et seq; column 19, line 17 et seq), Internet/WWW site (column 7, line 55 et seq; column 5, line 40 et seq), creating a customizable portfolio of tradable assets/liabilities (e.g., column 2, line 47 et seq; column 6, line 14 et seq; column 17, line 17 et seq), receiving an order to trade the portfolio as a whole and executing plural trades therefor (e.g., column 6, line 30 et seq; column 20, line 21 et seq). An asset allocation modeling and execution process provides an improved means to assist an individual in creating and implementing a customizable portfolio that achieves individualized goals within a particular investor's unique circumstances (e.g., column 2, line 13 et seq; column 4, line 5 et seq; column 6, line 30 et seq). It would have been obvious to

one of ordinary skill in the art at the time of the invention to provide an asset allocation and

portfolio modeling process, as taught by Jones et al, on the method and system of Harris et al to

provide an improved means for an individual to manage a portfolio (e.g., for retirement). Further,

it would have been obvious to one of ordinary skill in the art at the time of the invention to

aggregate transactions more frequently (e.g., a plurality of predetermined times) in order to

reduce the size of the omnibus trade file transactions to facilitate execution (cf., Harris et al,

column 7, line 50 et seq).

5.      Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al, in

view of Jones et al (and Maggioncalda et al) as applied to claim 10 above, and further in view of

Debe et al, U.S. patent 5,758,097.

        The modified system of Harris et al discloses a trading system. The modified system of

Harris et al does not disclose user voting rights information. Debe et al disclose a trading system

for tracking user voting rights (Figure 2; column 5, line 42 et seq). A vote tracking system

provides an improved means of tracking users' voting interests in investment assets (e.g., those

involving fractional interests in an asset) (column 2, line 33 et seq). It would have been obvious

to one of ordinary skill in the art at the time of the invention to provide a vote tracking system, as

taught by Debe et al, on the modified system of Harris et al to provide a means of tracking users'

voting rights in various investment assets.

6.      Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al, in

view of Jones et al (and Maggioncalda et al, U.S. patent 5,918,217, which is incorporated therein

by reference; column 12, line 35 et seq) as applied to claim 25 above, and further in view of

Champion et al, U.S. patent 5,126,936.

The modified system of Harris et al discloses a trading system, as discussed. The modified

system of Harris et al does not disclose a direct dial-up telephone. Champion et al disclose a

trading system with direct dial-up telephone connection (Figure 2). A direct-dial telephone

connection provides a well-known communication means for a trading system (e.g., column 5,

line 25 et seq). It would have been obvious to one of ordinary skill in the art at the time of the

invention to provide a direct-dial connection, as taught by Champion et al, on the modified system

of Harris et al to provide an efficient, inexpensive means for a user to communicate with the

system.

7.      Claims 27-29 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Harris et al, in view of Champion et al, U.S. patent 5,126,936.

Harris et al disclose a trading system, as discussed, including order aggregation. Harris et

al do not disclose a direct dial-up telephone connection or netting orders. Champion et al disclose

a trading system with direct/intermediate dial-up telephone connection (Figure 2) and aggregating

and netting orders (e.g., column 5, line 10 et seq). A direct-dial telephone connection provides a

well-known communication means for a trading system (e.g., column 5, line 25 et seq), while

order aggregation and netting provides an improved means to significantly reduce transaction

expenses (e.g., column 5, line 50 et seq. It would have been obvious to one of ordinary skill in

the art at the time of the invention to provide a direct-dial connection and order aggregation and

netting, as taught by Champion et al, on the system of Harris et al to provide an efficient,

inexpensive means for a user to communicate with the system and for orders to be transacted.

8.      Claims 30-35 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Jones et al, U.S. patent 6,021,397 (and Maggioncalda et al, U.S. patent 5,918,217, which is

incorporated therein by reference; column 12, line 35 et seq), in view of Ray et al, U.S. patent

6,018,722.

Jones et al disclose a personal computer program for creating, managing, and trading a

user customizable portfolio of assets/liabilities, including a GUI (345) for user identification and

preference data (e.g., column 5, line 50 et seq), a user preference asset allocation modeling

process (e.g., column 2, line 15 et seq; column 2, line 50 et seq; column 3, line 40 et seq), risk and

return process (e.g., column 8, line 50 et seq), portfolio editor (e.g., Figure 8; column 6, line 40 et

seq), communication process for executing plural implementing trades (e.g., column 6, line 30 et

seq; also Maggioncalda et al, Figure 4).  To the extent that Jones et al could be interpreted not to

disclose a communication process to execute trades, Ray et al disclose a personal computer

program for creating, managing, and trading a portfolio of assets/liabilities, including GUI (e.g.,

200, 210, 230) (Figure 2; column 10, line 25 et seq), asset allocation model (115), user preference

data (Figure 6), plurality of assets/liabilities for portfolio (e.g., column 5, line 25 et seq), risk and

return calculation process (e.g., 720) (e.g., column 5, line 20 et seq), portfolio editor (Figure 7),

and communication process (130, 450) (Figures 1, 4; column 9, line 23 et seq), processor

receiving user data/amounts of money to be invested (e.g., column 9, line 22 et seq; column 10,

line 1 et seq), and storage unit (245).  A communication process provides a means to implement

portfolio recommendations generated by an asset allocation/portfolio optimization process

program, thereby enabling an individual to create an investment portfolio for future management

(e.g., Ray et al; column 2, line 10 et seq; Jones et al, column 6, line 30 et seq). It would have

been obvious to one of ordinary skill in the art at the time of the invention to provide a

communication process, as taught by Ray et al, on the device of Jones et al to provide a means to

implement a user-selected portfolio.

Jones et al also disclose a GUI display of risk and return, numerical indicator, (e.g.,

Figures 4-7c, 9, 10), "arrow on a dial"/range of numerical values (e.g., Figures 5b, 6, 9,

12a/b, 14a/b). Further, Ray et al also disclose a numerical indicator (e.g., column 5, line 20 et

seq). Jones et al are deemed to disclose an "arrow" on a dial/range of numerical values, as

disclosed in the present application (page 41, lines 7-9). To the extent that Jones et al do not

disclose color codes, Official Notice is taken that the concept and advantages of color codes in

providing an enhanced visual depiction of investment returns and risks are well known and

expected in the art. It would have been obvious to one of ordinary skill in the art at the time of

the invention to provide color codes for investment risks and returns to enable a user to better

comprehend those relative risks and returns (cf., Maggioncalda et al, column 13, line 10 et seq).

Official Notice is also taken that the concept and advantages of control processes that

automatically update versions of a user program are well known and expected in the art. It would

have been obvious to one of ordinary skill in the art at the time of the invention to provide system

updates of a user program in order to automatically provide the most recent features of a user

program.

9.    Claims 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et

al, in view of Jones et al, U.S. patent 6,021,397 (and Maggioncalda et al, U.S. patent 5,918,217,

which is incorporated therein by reference; column 12, line 35 et seq), as applied to claims 42

and 48 above, and further in view of Champion, U.S. patent 5,126,936.

The modified method of Harris et al discloses a periodic investment method, as discussed,

including order aggregation.  The modified method of Harris et al does not disclose netting

orders.  Champion et al disclose a trading method including aggregating and netting orders (e.g.,

column 5, line 10 et seq).  Order aggregation and netting provides an improved means to

significantly reduce transaction expenses (e.g., column 5, line 50 et seq.  It would have been

obvious to one of ordinary skill in the art at the time of the invention to provide order aggregation

and netting, as taught by Champion et al, on the method of Harris et al to provide an efficient,

inexpensive means for a user to communicate with the system and for orders to be transacted.

*Response to Arguments*

10.    Applicant's arguments filed July 2, 2001, have been fully considered but they are not

persuasive.

Harris et al are deemed to disclose a trading system and method for enabling a plurality of

investors to create and trade a portfolio of directly owned assets/liabilities (e.g., column 2, line 3

et seq; column 5, line 60 et seq; column 6, line 15 et seq; column 7, line 7 et seq).  Investors make

portfolio trading decisions that the system and method of Harris et al execute (e.g., column 6, line

15 et seq; column 7, line 7 et seq).  Further, Harris et al are deemed to disclose a portfolio of

assets/liabilities (i.e., a variety of securities investment options) (e.g., column 2, line 3 et seq;

column 2, line 23 et seq). Moreover, Harris et al are deemed to disclose the aggregation of all

buy and sell orders into a single buy and sell order for each asset/liability to a third party for

execution (e.g., Figure 2; column 6, line 30 et seq; column 7, line 1 et seq). The aggregation of

orders by trade (e.g., buy and sell) and asset/liability type (e.g., fund) (e.g., column 6, line 30 et

seq) occurs across all users of the system (e.g., column 7, line 10 et seq; column 8, line 30 et seq),

as broadly recited and disclosed. Payment for these trades occurs via electronic payment systems

(e.g., by electronic funds transfer) (e.g., column 8, line 15 et seq), as broadly recited and disclosed

(e.g., page 43, lines 21-26 of the application). Finally, Harris et al disclose a system and method

for trading directly owned assets/liabilities from which investors receive capital gains and

dividends (e.g., column 11, line 13 et seq; column 15, line 62 et seq), and which result in purchase

and exchange trades (e.g., column 9, line 64 et seq; column 13, line 47 et seq).

Ray et al are deemed to disclose a program and apparatus for enabling plural users to

create, manage, and trade a customized portfolio of directly owned assets/liabilities via periodic

investments (e.g., Figures 1-7; column 1, line 55 et seq; column 2, line 20 et seq; column 3, line

19 et seq; column 5, line 25 et seq). This customized portfolio allows an investor to select from a

recommended list of securities (e.g., column 3, line 19 et seq). Further, the customized portfolio

is customized to each individual investor's unique circumstances (e.g., Figures 1, 3, 4, 7; column

4, line 46 et seq; column 5, line 32 et seq). The customized allocation of a wide variety of

assets/liabilities (e.g., column 2, line 49 et seq) provides an individualized risk-adjusted portfolio

appropriate to each individual investor (e.g., column 4, line 62 et seq; column 5, line 20 et seq;

column 8, line 39 et seq).

Harris et al are deemed to disclose trading of portfolios of directly owned assets/liabilities, as discussed. Jones et al, Maggioncalda et al, Debe et al, and Champion et al are relied upon to disclose those inventive features not taught by Harris et al (e.g., asset allocation modeling process, tracking voting rights, and direct dial up connection). Jones et al and Maggioncalda et al disclose the use of asset allocation modeling to select investor assets (e.g., column 2, line 15 et seq; column 2, line 48 et seq). Asset allocation modeling provides an improved, well-known means to provide unique, customized user portfolios of assets/liabilities appropriate to each user's unique circumstances (e.g., Jones et al; column 2, line 25 et seq), thereby providing a means for a system operator to fulfill their fiduciary obligation (e.g., Harris et al, column 2, line 4 et seq) and for investors to choose from a variety of investment options (e.g., Harris et al, column 2, line 23 et seq). Debe et al disclose a system for tracking voting rights in investor-owned assets (e.g., column 5, line 42 et seq). Such tracking means provides an improved means to track investors' voting rights, which are an important investor interest in various assets (e.g., column 2, line 33 et seq) and which is combined with the disclosed ability of Harris et al to track other valuable investor rights, such as the right to receive dividends and capital gains (e.g., column 11, line 13 et seq; column 15, line 62 et seq). Champion et al disclose a direct dial up connection for investors and system users. Use of this well-known communication means allows users and investors to access the system remotely and trade assets/liabilities (e.g., column 5, line 25 et seq). Such method would be easily combined with that of Harris et al, which also users to submit portfolio trade orders (e.g., column 6, line 16 et seq; column 7, line 7 et seq).

In response to applicant's argument that the examiner's conclusion of obviousness is based

upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in

a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into

account only knowledge which was within the level of ordinary skill at the time the claimed

invention was made, and does not include knowledge gleaned only from the applicant's disclosure,

such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971). In this regard, it is noted that the method and system of Harris et al can be used with

alternate embodiments (e.g., column 4, line 35 et seq).

### *Conclusion*

11.     Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

12.     Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Jim Calve, whose telephone number is (703) 308-1884.  The examiner can

normally be reached on Tuesday through Friday from 6:45 am to 6:45 pm.   The fax number for

this organization is (703) 305-9051/9052.  Any inquiry of a general nature should be directed to

the receptionist at (703) 305-3900.

JPC
JPC

September 28, 2001

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

## DETAILED ACTION

1.     The finality of the rejection contained in the previous office action (Paper #10) has been

withdrawn in order to apply new grounds of rejection.  *See* MPEP 706.07(e).

### *Drawings*

2.     The drawings are objected to under 37 CFR 1.83(a).  The drawings must show every

feature of the invention specified in the claims.  Therefore, the arrow on a dial (claim 33) must be

shown or the feature(s) canceled from the claim(s).  No new matter should be entered.

### *Claim Rejections - 35 USC § 102*

3.     Claims 1, 4-8, 44, 45, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by

Harris et al, U.S. patent 5,918,218.

Harris et al disclose a trading system and method for enabling a plurality of users to

create, manage, and trade a portfolio of assets/liabilities with a processor (40, 50), communicating

with a plurality of users (e.g., column 2, line 30 et seq; column 6, line 10 et seq), aggregation of

buy/sell orders (e.g., column 6, line 30 et seq; column 7, line 1 et seq), storage (40), and

electronic payment system (e.g., 1758) (Figure 17C).

Harris et al also disclose an electronic payment system (e.g., 1758) (Figure 17C), plural

accounts and payment storage (e.g., Figures 17A-D; column 2, line 60 et seq; column 13, line 38

et seq), communication link (e.g., 240), sending aggregate users' trades to third party trader (e.g.,

column 7, line 10 et seq).

4.　　Claims 30, 32, 44, and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by

Ray, U.S. patent 6,018,722.

Ray et al disclose a PC-based program to create, manage, and trade a portfolio of assets/

liabilities with a GUI (e.g., 200, 210, 230) (Figure 2; column 10, line 25 et seq), asset allocation

model (115), user preference data (Figure 6), plurality of assets/liabilities for portfolio (e.g.,

column 5, line 25 et seq), risk and return calculation process (e.g., 720) (e.g., column 5, line 20 et

seq), portfolio editor (Figure 7), and communication process (130, 450) (Figures 1, 4; column 9,

line 23 et seq), processor receiving user data/amounts of money to be invested (e.g., column 9,

line 22 et seq; column 10, line 1 et seq), and storage unit (245).

Ray et al also disclose a numerical indicator (e.g., column 5, line 20 et seq).

### *Claim Rejections - 35 USC § 103*

5.　　Claims 2, 3, 9-17, 19-25, 36-42, and 48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Harris et al, in view of Jones et al, U.S. patent 6,021,397 (and Maggioncalda et

al, U.S. patent 5,918,217, which is incorporated therein by reference; column 12, line 35 et seq).

Harris et al disclose a trading system and method, as discussed, including periodically

aggregating and executing transactions over an amount of transactions (e.g., column 6, line 50 et

seq; column 7, line 10 et seq), a processor, communication of user ID (e.g., Figures 11-14),

periodic/monthly payments (e.g., payroll deductions, column 8, line 15 et seq), fractional shares

(e.g., column 8, line 25 et seq), trade pricing information (column 7, line 27 et seq), and payment

information (e.g., column 6, line 23 et seq).　Harris et al do not disclose asset allocation/portfolio

creation based on user preferences. Jones et al disclose a user trader system with asset allocation

modeling to select assets (e.g., column 2, line 15 et seq; column 2, line 50 et seq; column 3,

line 40 et seq), user PC (345) for user ID and preferences (e.g., Figures 1, 3; column 5, line 50 et

seq), GUI risk and return process (Maggioncalda et al, Figures 4-7c, 9, 10, 12a/b, 14a/b),

allocation adjustment (Maggioncalda et al, Figures 12a, 12b), program transmission (e.g., column

5, line 40 et seq), tax basis (320) (column 10, line 25 et seq), pricing data reallocation (column 12,

line 10 et seq; column 18, line 50 et seq; column 19, line 17 et seq), Internet/WWW site (column

7, line 55 et seq; column 5, line 40 et seq). An asset allocation modeling process provides an

improved means to assist an individual in creating an attainable portfolio (e.g., column 4, line 5 et

seq). It would have been obvious to one of ordinary skill in the art at the time of the invention to

provide an asset allocation and portfolio modeling process, as taught by Jones et al, on the

method and system of Harris et al to provide an improved means for an individual to manage a

portfolio (e.g., for retirement). Further, it would have been obvious to one of ordinary skill in the

art at the time of the invention to aggregate transactions more frequently (e.g., a plurality of

predetermined times) in order to reduce the size of the omnibus trade file transactions to facilitate

execution (cf., Harris et al, column 7, line 50 et seq).

6.     Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al, in

view of Jones et al (and Maggioncalda et al) as applied to claim 10 above, and further in view of

Debe et al, U.S. patent 5,758,097.

The modified system of Harris et al discloses a trading system. The modified system of Harris et al does not disclose user voting rights information. Debe et al disclose a trading system for tracking user voting rights (Figure 2; column 5, line 42 et seq). A vote tracking system provides an improved means of tracking users' voting interests in investment assets (e.g., those involving fractional interests in an asset) (column 2, line 33 et seq). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a vote tracking system, as taught by Debe et al, on the modified system of Harris et al to provide a means of tracking users' voting rights in various investment assets.

7.      Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al, in view of Jones et al (and Maggioncalda et al, U.S. patent 5,918,217, which is incorporated therein by reference; column 12, line 35 et seq) as applied to claim 25 above, and further in view of Champion et al, U.S. patent 5,126,936.

The modified system of Harris et al discloses a trading system, as discussed. The modified system of Harris et al does not disclose a direct dial-up telephone. Champion et al disclose a trading system with direct dial-up telephone connection (Figure 2). A direct-dial telephone connection provides a well-known communication means for a trading system (e.g., column 5, line 25 et seq). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a direct-dial connection, as taught by Champion et al, on the modified system of Harris et al to provide an efficient, inexpensive means for a user to communicate with the system.

8.      Claims 27-29 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Harris et al, in view of Champion et al, U.S. patent 5,126,936.

Harris et al disclose a trading system, as discussed, including order aggregation. Harris et

al do not disclose a direct dial-up telephone or netting orders. Champion et al disclose a trading

system with direct/intermediate dial-up telephone connection (Figure 2) and aggregating and

netting orders (e.g., column 5, line 10 et seq). A direct-dial telephone connection provides a well-

known communication means for a trading system (e.g., column 5, line 25 et seq), while order

aggregation and netting provides an improved means to significantly reduce transaction expenses

(e.g., column 5, line 50 et seq. It would have been obvious to one of ordinary skill in the art at

the time of the invention to provide a direct-dial connection and order aggregation and netting, as

taught by Champion et al, on the system of Harris et al to provide an efficient, inexpensive means

for a user to communicate with the system and for orders to be transacted.

9.      Claims 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al,

U.S. patent 6,021,397 (and Maggioncalda et al, U.S. patent 5,918,217, which is incorporated

therein by reference; column 12, line 35 et seq), in view of Ray et al, U.S. patent 6,018,722.

Jones et al disclose a personal computer program for creating, managing, and trading a

portfolio of assets/liabilities, including a GUI (345) for user identification and preference data

(e.g., column 5, line 50 et seq), a user preference asset allocation modeling process (e.g.,

column 2, line 15 et seq; column 2, line 50 et seq; column 3, line 40 et seq) risk and return

process (e.g., column 8, line 50 et seq), portfolio editor (e.g., Figure 8; column 6, line 40 et seq),

communication process (e.g., column 6, line 30 et seq; also Maggioncalda et al, Figure 4). To the

extent that Jones et al could be interpreted not to disclose a communication process to execute

trades, Ray et al disclose a personal computer program for creating, managing, and trading a

portfolio of assets/liabilities, including GUI (e.g., 200, 210, 230) (Figure 2; column 10, line 25 et

seq), asset allocation model (115), user preference data (Figure 6), plurality of assets/liabilities for

portfolio (e.g., column 5, line 25 et seq), risk and return calculation process (e.g., 720) (e.g.,

column 5, line 20 et seq), portfolio editor (Figure 7), and communication process (130, 450)

(Figures 1, 4; column 9, line 23 et seq), processor receiving user data/amounts of money to be

invested (e.g., column 9, line 22 et seq; column 10, line 1 et seq), and storage unit (245). A

communication process provides a means to implement recommendations generated by an asset

allocation/portfolio optimization process program, thereby enabling an individual to manage an

investment portfolio (e.g., Ray et al; column 2, line 10 et seq; Jones et al, column 6, line 30 et

seq). It would have been obvious to one of ordinary skill in the art at the time of the invention to

provide a communication process, as taught by Ray et al, on the device of Jones et al to provide a

means to implement a selected portfolio.

Jones et al also disclose a GUI display of risk and return, numerical indicator, (e.g.,

Figures 4-7c, 9, 10), "arrow on a dial"/range of numerical values (e.g., Figures 5b, 6, 9,

12a/b, 14a/b). Further, Ray et al also disclose a numerical indicator (e.g., column 5, line 20 et

seq). Jones et al are deemed to disclose an "arrow" on a dial/range of numerical values, as

disclosed in the present application (page 41, lines 7-9). To the extent that Jones et al do not

disclose color codes, Official Notice is taken that the concept and advantages of color codes in

providing an enhanced visual depiction of investment returns and risks are well known and

expected in the art. It would have been obvious to one of ordinary skill in the art at the time of

the invention to provide color codes for investment risks and returns to enable a user to better

comprehend those relative risks and returns (cf., Maggioncalda et al, column 13, line 10 et seq).

Official Notice is also taken that the concept and advantages of control processes that

automatically update versions of a user program are well known and expected in the art. It would

have been obvious to one of ordinary skill in the art at the time of the invention to provide system

updates of a user program in order to automatically provide the most recent features of a user

program.

10.     Claims 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et

al, in view of Jones et al, U.S. patent 6,021,397 (and Maggioncalda et al, U.S. patent 5,918,217,

which is incorporated therein by reference; column 12, line 35 et seq), as applied to claims 42

and 48 above, and further in view of Champion, U.S. patent 5,126,936.

The modified method of Harris et al discloses a periodic investment method, as discussed,

including order aggregation. The modified method of Harris et al does not disclose netting

orders. Champion et al disclose a trading method including aggregating and netting orders (e.g.,

column 5, line 10 et seq). Order aggregation and netting provides an improved means to

significantly reduce transaction expenses (e.g., column 5, line 50 et seq. It would have been

obvious to one of ordinary skill in the art at the time of the invention to provide order aggregation

and netting, as taught by Champion et al, on the method of Harris et al to provide an efficient,

inexpensive means for a user to communicate with the system and for orders to be transacted.

### *Response to Arguments*

11.    Applicant's arguments with respect to claims 1-49 have been considered but are moot in

view of the new ground(s) of rejection.

### *Conclusion*

12.    Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Jim Calve, whose telephone number is (703) 308-1884.  The examiner can

normally be reached on Tuesday through Friday from 6:45 am to 6:45 pm.  If the examiner is

unavailable, the examiner's supervisor, Vincent Millin, may be reached at (703) 308-1065.  The

fax number for this organization is (703) 305-9051/9052.  Any inquiry of a general nature should

be directed to the receptionist at (703) 305-3900.

JPC

January 19, 2001